

REMARKS

In the application claims 1-17 and 22-28 remain pending. Claims 18-20, 29, and 30 having been canceled without prejudice. Claims 1, 11, and 22 have been amended to further clarify what is regarded as the invention. Support for the amendments is found in the application as originally filed. No new matter has been added.

All of the pending claims presently stand rejected. The reconsideration of the rejection of the claims is hereby requested.

The pending claims presently stand rejected as being anticipated by Walsh (U.S. Published Application No. 2003/0050058) or as being rendered obvious by Walsh as modified by one or more of Sun (U.S. Published Application No. 2002/0137460), Striemer (U.S. Published Application No. 2003/0197607), Hunt (U.S. Patent No. 6,263,491), and Linnartz (U.S. Published Application No. 2002/0066018).

In response to the rejection of the claims, it is respectfully submitted that a rejection under 35 U.S.C. § 102 may be maintained only if a single reference discloses, either expressly or inherently, each and every element set forth in the claims, considering each and every word. Similarly, a rejection under 35 U.S.C. § 103 may be maintained only if a combination of references disclose, either expressly or inherently, each and every element set forth in the claims and there further exists some motivation for combining the elements. To be “inherently” described in a reference, the reference “must make clear that the missing descriptive matter is necessarily present in the thing described and that it would be so recognized by persons of ordinary skill.” Inherency “may not be established by probabilities or possibilities.” *Continental Can Co. USA v. Monsanto Co.*, 948 F.3d 1264 (Fed. Cir. 1991).

Believing that the art of record cannot support a rejection under either 35 U.S.C. § 102 or 35 U.S.C. § 103, it is respectfully requested that the rejection of the claims be withdrawn.

Considering now Walsh, Walsh describes a dynamic content delivery system in which is used to deliver user-selected songs over an audio system. To select which songs are to be delivered over the audio system, Walsh further describes that a Bluetooth connection may be established between a mobile phone and the content delivery system. Once the connection is established, the content delivery system sends a song list to the mobile phone in the form of a plugin program. A user may then navigate the song list and cause a request to be sent to the content delivery system to play a selected song. Upon receiving the request, the content delivery system queues the selected song as a song to be played over the audio system.

While the rejection of the claims has asserted that paragraph 0042, lines 1-5 of Walsh discloses transitioning of the receiving device from a first state to a second state to perform content synchronization in response to a received synchronization signal where the device consumes less power in the first state than in the second state, it is respectfully submitted that the cited passage fails to expressly describe these claimed elements. Specifically, while the cited passage does expressly describe that Bluetooth radio technology is used in the DCDS to allow users to request audio content using Bluetooth enabled, mobile communication device, nowhere within the cited passage is expressly described that the mobile communication device “will transition from the standby mode to the activation mode” and nowhere within the cited passage is expressly described that the “standby mode consumes less power than the activation mode” as alleged in the

rejection of the claims. Furthermore, since no reference is made *anywhere* within Walsh of modes, mode transitions, or power consumption in modes, it is respectfully submitted that it can be equally argued that system of Walsh requires that the Bluetooth transceiver be manually activated into an “active mode” to thereby enable the mobile device to communicate with the content delivery system which would thus preclude the Bluetooth transceiver from ever transitioning to an “activation mode” from a “standby mode” in response to a reception of a signal from the content delivery system as asserted.

Accordingly, it will be appreciated that the mere description within Walsh that “Bluetooth radio technology is used in the DCDS to allow users to request audio content using each user’s individual Bluetooth enable mobile communications device” cannot be said to make clear that the missing descriptive matter is necessarily present in the thing described and that it would be so recognized by persons of ordinary skill and, as such, it is respectfully submitted that it also cannot be said that Walsh inherently discloses each and every element, considering each and every word, set forth in the claims. For at least these reasons it is respectfully submitted that Walsh, whether considered alone or in combination with the remaining cited references, cannot be said to anticipate or render obvious the subject matter set forth in the independent claims and the rejection of these claims must therefore be withdrawn.

It is additionally respectfully submitted that Walsh fails to expressly or inherently disclose in paragraph 0042, lines 1-5 that the content server “periodically transmits inquiry signals which comprise access codes, when the access codes matches the Bluetooth enable devices access codes said Bluetooth enabled devices will respond with an acknowledgement signal” as alleged in the rejection of the claims. In this regard, it is

respectfully noted that terms “periodic” and “access code” never appear *anywhere* within Walsh. As to whether it is inherent from the disclosure within Walsh that the content server periodically transmits inquiry signals as asserted, it is to be noted that the rejection of claim 5 evidences that it is equally likely that the content server of Walsh may be designed to merely transmit signals in response to a user request as opposed to being designed to periodically transmit “inquiry signals.” Accordingly, it cannot be said that Walsh makes clear that the missing descriptive matter is necessarily present in the thing described as is required of inherency. For at least these reasons it is respectfully submitted that Walsh, whether considered alone or in combination with the remaining cited references, cannot be said to anticipate or render obvious the subject matter set forth in the dependent claim 4 and the rejection of this claim must therefore be withdrawn.

It is yet further respectfully submitted that Walsh fails to expressly or inherently disclose in paragraph 0042, lines 1-5 “enabling a power supply system to cause the first microprocessor to transition from the first state to the second state” as alleged in the rejection of the claims. While paragraph 0042, lines 1-5 fails to make *any* mention of a power supply doing *anything*, it is further noted that the explanation set forth in the rejection of the claims as to what is disclosed within paragraph 0042, lines 1-5 similarly fails to make *any* mention of a power supply doing anything. Rather, evidencing that Walsh does not even inherently describe this aspect of the invention claimed, i.e., make clear that the missing matter is *necessarily* present in the thing described, the explanation set forth in the rejection of the claims sets forth that “during standby mode the Bluetooth enabled devices will listen for inquiry messages and, *when the access code in said inquiry messages matches the access code derived from the Bluetooth enabled devices*

identity said devices will transition from an activation mode and synchronize with the master.” (emphasis added). Thus, since Walsh fails to expressly or inherently disclose, teach, or suggest enabling a power supply system to cause the first microprocessor to transition from the first state to the second state and, as such, cannot be said to expressly or inherently disclose, teach, or suggest the now claimed synchronization budget manager which limits time during which the wireless transceiver performs content synchronization with the server computer as a function of an amount of power which is allowed to be expended on synchronization, it is respectfully submitted that Walsh, whether considered alone or in combination with the remaining cited references, cannot be said to anticipate or render obvious the subject matter set forth in the independent claims or dependent claim 12 and the rejection of these claims must therefore be withdrawn.

CONCLUSION

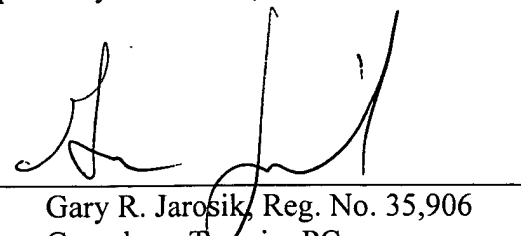
It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Examiner is respectfully requested.

While it is not believed that any fee is due, the Commissioner is authorized to charge any fee deficiency to deposit account number 50-2428 in the name Greenberg Traurig.

Respectfully Submitted;

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By:



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